

## Clearinghouse Rule 10-109

BEFORE THE  
DEPARTMENT OF NATURAL RESOURCES  
NOTICE OF PUBLIC HEARINGS  
DG-34-10

NOTICE IS HEREBY GIVEN THAT pursuant to ss. 227.11(2)(a) and 281.346(4s), (5), and (9), Stats., the Department of Natural Resources will hold public hearings on the creation of Wis. Adm. Code chapter NR 860 Water Use Permitting, relating to the application and permit process for withdrawals of water from the Great Lakes basin.

NOTICE IS HEREBY FURTHER GIVEN that the hearings will be held on:

**October 13, 2010, Wednesday, 2:00 p.m.**, at the DNR Milwaukee SER Headquarters, 2300 N. Dr. Martin Luther King Jr. Dr., Milwaukee in Rooms 140-141.

**October 14, Thursday, 2:00 p.m.** Concurrent sessions will be held at the following two locations: the University of Wisconsin Green Bay, Instructional Services Building Room 1034, 2420 Nicolet Drive, Green Bay, WI (<http://www.uwgb.edu/team/maps/index.htm#is1034>) AND the Wisconsin Indianhead Technical College (WITC), Conference Center Room 306, 2100 Beaser Avenue, Ashland, WI (<http://www.witc.edu/ashland/map.htm>).

NOTICE IS HEREBY FURTHER GIVEN that the proposed rule and supporting documents, including the fiscal estimate, may be viewed and downloaded and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. (Search this Web site using the Natural Resources Board Order No. DG-34-10. Written comments on the proposed rule may be submitted via U.S. mail to Ms. Kristy Rogers, Bureau of Drinking Water and Groundwater, P.O. Box 7921, Madison, WI 53707 or by e-mail to [Kristy.Rogers@wisconsin.gov](mailto:Kristy.Rogers@wisconsin.gov). Comments may be submitted until October 31, 2010. Written comments whether submitted electronically or by mail will have the same weight and effect as oral statements presented at the public hearings. If you do not have Internet access, a personal copy of the proposed rule and supporting documents may be obtained from Kristy Rogers, Bureau of Drinking Water and Groundwater, P.O. Box 7921, Madison, WI 53707 or by calling (608) 266-9254.

**Plain Language Analysis:** This rule supports the implementation of 2007 Wisconsin Act 227 and the Great Lakes—St. Lawrence River Basin Water Resources Compact (Compact) by defining the process, requirements, and criteria for water use permitting in the Great Lakes basin. Beginning on December 8, 2011, coverage under a general permit or an individual permit is required for all persons who withdraw water from the Great Lakes basin in an amount that averages 100,000 gallons per day or more in any 30-day period. The rule establishes definitions, permit application information requirements, permit review time limits, required permit conditions, criteria for permit issuance, procedures for amending and terminating permits, and standards and procedures for public participation for the water use permitting program. The rule interprets s. 281.346(4m), (4s), (5), (5m), (6) and (9), Stats.

**Federal Regulatory Analysis:** There are no comparable federal regulations pertaining to withdrawals of Great Lakes basin water.

**Comparison with Rules in Adjacent States:** The following table compares permitting requirements for water withdrawals in adjacent states.

Wisconsin	Michigan	Illinois	Iowa	Minnesota
A water use general permit is required for withdrawals from the Great Lakes basin that average 100,000 gallons per day or more in any 30 day period. A water use individual permit is required for withdrawals from the Great Lakes basin that equal at least 1,000,000 gallons per day for any 30 consecutive days.	Permits are required for new and increased withdrawals of more than 2,000,000 gallons per day, new or increased withdrawals of more than 1,000,000 gallons per day if the withdrawal will have a certain type of impact (Zone C withdrawal), and new or increased intrabasin transfers of more than 100,000 gallons per day average over any 90-day period.	An allocation permit is required for withdrawals from the Great Lakes basin.	Water use permits are required of any person or entity that withdraws at least 25,000 gallons in a 24-hour period during any calendar year.	Water Use permits are required for withdrawals greater than or equal to 10,000 gallons per day or 1 million gallons per year from surface or groundwater.

**Summary of the Factual Data and Analysis that Support the Proposed Rule:** Information from the Great Lakes-St. Lawrence River Basin Water Resources Council, other Great Lakes states, existing state statutes, and existing department rules and procedures were used to guide the development of the proposed rule.

**Analysis and Supporting Documentation in Support of the Determination of the Rule's Effect on Small Business:** The department lacks complete data on the number and nature of operations withdrawing water above the thresholds requiring a permit. However, based upon the withdrawal data that does exist (e.g. high capacity well pumpage data), most small businesses are expected to fall within the general permit category with very few needing to obtain an individual permit.

**Effect on Small Business:** This rule will affect small businesses that supply their own water with water supply systems that withdraw an average of 100,000 gallons per day. Small businesses, like other entities that are affected by this rule, will have to obtain a permit, measure the amount of water used on a monthly basis, and report that water use annually. Small businesses that receive water solely from a public water supply will not be impacted by this rule. Most small businesses regulated by this rule are expected to fall within the general permit category. The general permit requirements are straightforward and can be accomplished by most individuals with no specific professional background. The application for an individual permit may require the hiring of a professional environmental consultant to assist with the evaluation of impacts from a proposed withdrawal.

**Fiscal Estimate:** A fiscal estimate has been prepared and a full copy can be obtained following the procedures set forth above. The rule is expected to have a minimal fiscal impact on existing withdrawers. New withdrawers and existing withdrawers that wish to increase their withdrawal will be required to apply for a permit. Preparation of the permit application may require the hiring of a consultant. The costs for a consultant will vary depending on the size of the withdrawal and potential impacts. There is little-to-no expected increase in annual costs for

withdrawers. In most cases, the withdrawal measurement and annual reporting requirements are consistent with other existing Department requirements.

**Agency Contact Person:** Kristy J. Rogers, Water Supply Specialist, Wisconsin Department of Natural Resources, Bureau of Drinking Water & Groundwater, (608) 266-9254, [Kristy.Rogers@wisconsin.gov](mailto:Kristy.Rogers@wisconsin.gov)

NOTICE IS HEREBY FURTHER GIVEN that pursuant to s. 227.114, Stats., it is not anticipated that the proposed rules will have an economic impact on small businesses. The Department's Small Business Regulatory Coordinator may be contacted at [SmallBusiness@wisconsin.gov](mailto:SmallBusiness@wisconsin.gov) or by calling (608) 266-1959.

NOTICE IS HEREBY FURTHER GIVEN that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call James McLimans at (608) 266-2726 with specific information on your request at least 10 days before the date of the scheduled hearing.

Dated at Madison, Wisconsin \_\_\_\_\_

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By \_\_\_\_\_  
Matthew J. Frank, Secretary